

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 1:13-cv-10369-FDS

DORIS JEWEL and	:	
ROBERT E. JEWEL	:	
	:	
Plaintiff(s),	:	MDL No. 2419
	:	Master Docket No. 1:13-md-2419-FDS
v.	:	
	:	Honorable F. Dennis Saylor
	:	
UNIFIRST CORPORATION, A/D/B/A	:	
UNICLEAN CLEANROOM	:	
	:	
Defendant.	:	<u>DEMAND FOR JURY TRIAL</u>

**CORRECTED SHORT FORM COMPLAINT
AGAINST UNAFFILIATED DEFENDANTS**

Plaintiffs, Doris Jewel and Robert E. Jewel, complaining against the Defendant, allege(s) as follows:

FIRST COUNT

1. Pursuant to MDL Order No. 7, entered in In Re: New England Compounding Pharmacy, Inc. Products Liability Litigation, Master Docket No. 1:13-md-2419-FDS, the undersigned counsel hereby submit this Short Form Complaint and Jury Demand against the Defendants, and adopt and incorporate by reference the allegations in the Plaintiffs' Master Complaint, with attachments, and any and all amendments thereto.

2. Plaintiff Doris Jewel is a resident of the State of Indiana.

3. Plaintiff brings this action:

On behalf of herself/himself.

As the representative of _____, who is a living person.

As the Administrator, Administrator ad Prosequendum, or other representative of the Estate of _____ (hereinafter "Decedent"), who died on _____.

4. Additionally, Robert E. Jewel is the:

Spouse

Child/Children

Other (Set forth) _____

of Doris Jewel, is a resident(s) of the State of Indiana, and is hereby named as an additional plaintiff(s), and claims damages.

5. Plaintiff Doris Jewel asserts that she was administered New England Compounding Pharmacy, Inc. ("NECC") drug methylprednisolone acetate (hereinafter referred to as "NECC drug"), causing injuries and damages.

6. The aforesaid administration of the NECC drug occurred on: September 20, 2012, by Christopher Annis, M.D., at ASC Surgical Ventures, LLC d/b/a O.S.M.C. Outpatient Surgery Center (hereinafter "O.S.M.C."), located in Elkhart, Indiana.

7. Plaintiffs adopt and incorporate by reference the following Causes of Action asserted against the Defendants in the Master Complaint:

- COUNT II: NEGLIGENCE AND GROSS NEGLIGENCE (Against UniFirst)
- COUNT III: NEGLIGENCE AND GROSS NEGLIGENCE (Against Clinic Related Defendants)
- COUNT IV: VIOLATION OF CONSUMER PROTECTION STATUTES (Against Clinic Related Defendants)

Plaintiff(s) allege violation of the following consumer protection statute(s): Ind. Code Ann 24-5-0.5-1 *et seq.*

- COUNT VI: VIOLATION OF M.G.L. C. 93A (Against UniFirst)
- COUNT VII: BATTERY (Against Clinic Related Defendants)
- COUNT VIII: FAILURE TO WARN (Against Clinic Related Defendants)
- COUNT IX: TENNESSEE PRODUCT LIABILITY CLAIMS (Against Tennessee Clinic Related Defendants)
- COUNT X: AGENCY (Against Clinic Related Defendants)
- COUNT XI: CIVIL CONSPIRACY (Against Clinic Related Defendants)
- COUNT XII: WRONGFUL DEATH PUNITIVE DAMAGES (Against UniFirst and Clinic Related Defendants)
- COUNT XIII: LOSS OF CONSORTIUM (Against UniFirst and Clinic Related Defendants)
- COUNT XIV: PUNITIVE DAMAGES (Against UniFirst and Clinic Related Defendants)

8. Plaintiffs have sent or served the pre-suit notice or demand requirements necessary to bring the claims set forth below, as required under M.G.L.C. 93A. See attached demand letter sent on December 18, 2013, pursuant to Massachusetts General Laws, Chapter 93A, § 9. Plaintiffs do not now assert but will seek leave to amend to assert the following claims promptly after the time period for giving notice has expired:

Count VI

9. Plaintiff Doris Jewel claims to have suffered the following injuries as a result of the administration of NECC's drug: developed fungal based meningitis-type symptoms.

10. Plaintiff Robert E. Jewel claims to have suffered the following injuries as a result of the administration of NECC's drug: loss of consortium.

WHEREFORE, Plaintiffs demand Judgment against the Defendants awarding compensatory damages, punitive damages, attorneys' fees, interest, costs of suit, and such further relief as the Court deems equitable and just.

Plaintiffs reserve the right to amend this Complaint to add allegations and claims against individuals or entities currently omitted (in light of the Court's order permitting a Master Complaint naming defendants affiliated with NECC and currently participating in mediation by December 20) and to add or amend allegations against Defendants named herein based, in part, on further discovery.

JURY DEMAND

Plaintiffs hereby demand a trial by jury.

Respectfully submitted:

PRICE WAICUKAUSKI & RILEY, LLC

/s/ Jamie R. Kendall

William N. Riley (#14941-49)
Jamie R. Kendall (#25124-49A)
301 Massachusetts Avenue
Indianapolis, Indiana 46204
(317) 633-8787
(317) 633-8797 Fax
E-Mail: wriley@price-law.com
jkendall@price-law.com

Douglas A. Mulvaney
STUTSMAN & MULVANEY
1300 Cassopolis Street
P.O. Box 1337
Elkhart, IN 46515-1337
(574) 266-8500
Fax: (574) 206-9215
dmulvaney@smspilawyers.com

Date: December 20, 2013

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of December, 2013, I caused a copy of the above Corrected Short Form Complaint Against Unaffiliated Defendants to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

/s/ Jamie R. Kendall

Jamie R. Kendall